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12 Attorneys for the Chapter 11 Debtor and
13 Debtor In Possession

14 **UNITED STATES BANKRUPTCY COURT**
15 **SOUTHERN DISTRICT OF CALIFORNIA**

16 In re

17 BORREGO COMMUNITY
18 HEALTH FOUNDATION,

19 Debtor and Debtor In
20 Possession.

21 Case No. 22-02384-11

22 Chapter 11 Case

23 Judge: Honorable Laura S. Taylor

24 **DEBTOR'S NOTICE AND MOTION TO**
25 **APPROVE COMPROMISE AMONG**
26 **DEBTOR, GEORGE JARED, D.D.S.,**
27 **AND GEORGE JARED, D.D.S., INC.**
28 **PURSUANT TO FEDERAL RULE OF**
29 **BANKRUPTCY PROCEDURE 9019;**
30 **DECLARATION OF ISAAC LEE IN**
31 **SUPPORT THEREOF**

32 Hearing:

33 Date: July 27, 2023

34 Time: 9:30 a.m. PST

35 Place: Department 3

1 **PLEASE TAKE NOTICE** that, at the above referenced date, time, and
2 location, before the Honorable Laura S. Taylor, United States Bankruptcy Judge for
3 the United States Bankruptcy Court for the Southern District of California (the
4 “Court”), in Department 3, Room 129, located at 325 West F Street, San Diego,
5 California 92101-6991, or as soon thereafter as the Court may hear the matter, the
6 Court shall hold a hearing on the motion (the “Motion”) filed by Borrego Community
7 Health Foundation, the above-referenced debtor and debtor in possession (the
8 “Debtor”) in the above captioned chapter 11 bankruptcy case (the “Chapter 11
9 Case”), for the approval of the proposed settlement (the “Settlement”) among the
10 Debtor, George Jared, D.D.S., and George Jared, D.D.S., Inc. (collectively, “Jared,”
11 and together with the Debtor, the “Parties”), as set forth in the Settlement Agreement
12 and Mutual Release (the “Settlement Agreement”) attached to the Motion as **Exhibit**
13 **“A”**.

14 The Settlement resolves the Debtor’s claims against Jared, as set forth more
15 fully in the Complaint attached to the Motion as **Exhibit “B,”** which the Debtor filed
16 in the United States District Court for the Southern District of California, entitled
17 *Borrego Community Health Foundation v. Karen Hebets, et al.*, Case No. 3:22-cv-
18 01056 (the “Action”),¹ as well as the disputed claim that the Debtor scheduled in this
19 Chapter 11 Case for Jared, which is denominated as Schedule ID 3273287 (the
20 “Scheduled Disputed Claim”), and any and all disputes arising out of or relating to
21 that certain written dental services contract, with an effective date of April 19, 2016
22 (the “Contract”) attached to the Motion as **Exhibit “C.”**

23 As set forth more fully in the accompanying Memorandum of Points and
24 Authorities (the “Memorandum”) and in the Settlement Agreement, the principal
25 terms of the Settlement provide that (a) Jared shall pay the Debtor \$125,000, in
26

27

¹ For the avoidance of doubt, this Settlement does not address any claims by or against any other
28 named defendant in the Action besides Jared, and the Debtor hereby reserves its rights with respect
to all other named defendants in the Action.

1 installments over 12 months, in full and final satisfaction of any and all alleged
2 damages arising out of or relating to the Contract and/or the Action (the “Settlement
3 Amount”); (b) Jared shall execute a Stipulation for Entry of Judgment in the event he
4 defaults on this settlement; (c) Jared shall cooperate with the Debtor in the Action;
5 (d) the Debtor will dismiss Jared from the Action; and (e) Jared’s claims, if any,
6 against the Debtor will be disallowed. The Debtor submits that the Settlement is in
7 the best interest of the estate and creditors and should be approved pursuant to Federal
8 Rule of Bankruptcy Procedure 9019.

9 **PLEASE TAKE FURTHER NOTICE** that the Motion is based on this
10 Notice of Motion, the Memorandum, the Declaration of Isaac Lee, supporting
11 statements, arguments and representations of counsel who will appear at the hearing
12 on the Motion, the record in this case, any other evidence properly brought before
13 the Court, and all other matters of which this Court may properly take judicial notice.

14 **PLEASE TAKE FURTHER NOTICE** that, pursuant to Rule 9013-7(b)(2)
15 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the
16 Southern District of California, the failure to file and serve a timely objection to the
17 Motion may be deemed by the Court to be consent to the relief requested herein.

18
19 Dated: June 21, 2023

DENTONS US LLP
SAMUEL R. MAIZEL
TANIA M. MOYRON
REBECCA M. WICKS

20
21 By /s/ Tania M. Moyron
22 Tania M. Moyron

23 Attorneys for the Chapter 11 Debtor and
24 Debtor In Possession

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Borrego Community Health Foundation (the “Debtor”), the debtor and debtor in possession in the above-captioned chapter 11 bankruptcy case (the “Case”), and George Jared, D.D.S. and George Jared, D.D.S., Inc. (collectively, “Jared,” and together with the Debtor, the “Parties”) have entered into a proposed settlement (the “Settlement”), as memorialized in the Settlement Agreement and Mutual Release (the “Settlement Agreement”) attached hereto as **Exhibit “A.”**

The Settlement resolves the Debtor’s claims against Jared, as set forth more fully in the Complaint attached hereto as **Exhibit “B,”** which the Debtor filed in the United States District Court for the Southern District of California, entitled *Borrego Community Health Foundation v. Karen Hebets, et al.*, Case No. 3:22-cv-01056 (the “Action”),² as well as the disputed claim of Jared that the Debtor scheduled in this Chapter 11 Case, which is denominated as Schedule ID 3273287 (the “Scheduled Disputed Claim”), and any and all disputes arising out of or relating to that certain written dental services contract, with an effective date of April 19, 2016 (the “Contract”) attached hereto as **Exhibit “C.”**

As set forth more fully below and in the Settlement Agreement, the principal terms of the Settlement provide that (a) Jared shall pay the Debtor \$125,000, in installments over 12 months, in full and final satisfaction of any and all alleged damages arising out of or relating to the Contract and/or the Action (the “Settlement Amount”); (b) Jared shall execute a Stipulation for Entry of Judgment in the event he defaults on this settlement; (c) Jared shall cooperate with the Debtor in the Action; (d) the Debtor will dismiss Jared from the Action; and (e) Jared’s claims, if any,

² For the avoidance of doubt, this Settlement does not address any claims by or against any other named defendant in the Action besides Jared, and the Debtor hereby reserves its rights with respect to all other named defendants in the Action.

1 against the Debtor will be disallowed. The Debtor submits that the Settlement is in
2 the best interest of the estate and creditors and should be approved pursuant to Federal
3 Rule of Bankruptcy Procedure 9019.

4 Based on the foregoing and for the reasons fully set forth below, the Debtor
5 submits that the Settlement is in the best interest of the estate and should be approved.

6 **II. JURISDICTION AND VENUE**

7 The United States Bankruptcy Court for the Southern District of California
8 (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
9 This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(B). Venue is proper in
10 this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicate for this
11 Motion is Bankruptcy Rule 9019.³

12 **III. BACKGROUND**

13 **A. GENERAL BACKGROUND**

14 1. On September 12, 2022 (the “Petition Date”), the Debtor filed a
15 voluntary petition for relief under chapter 11 of the Bankruptcy Code. Since the
16 commencement of this Chapter 11 Case, the Debtor has been operating its business
17 as a debtor in possession pursuant to §§ 1107 and 1108.

18 2. The Debtor is a nonprofit Federally Qualified Health Center (“FQHC”)
19 that provides health care services to low income and rural patients in San Diego and
20 Riverside Counties through a system of eighteen (18) clinics, two (2) pharmacies,
21 and six (6) mobile units. In 2021, the Debtor provided approximately 386,000 patient
22 care visits to over 94,000 patients. The Debtor’s services include comprehensive
23 primary care, urgent care, behavioral health, dental services, specialty care,
24
25

26 ³ All references to section or chapter herein are to the United States Bankruptcy Code, 11 U.S.C.
27 §§ 101-1532, as amended (the “Bankruptcy Code”), unless otherwise noted; all references to
28 “Bankruptcy Rules” are to the provisions of the Federal Rules of Bankruptcy Procedure.

1 transgender health, women's health, prenatal care, veteran's health, chiropractic
2 services, tele-health, and pharmacy.

3 3. FQHCs are federally designated entities that receive higher state
4 payments to provide health care services to low-income and rural families and
5 families in underserved communities with incomes below 200% of the poverty level.
6 As an FQHC, the Debtor strives to deliver high quality, comprehensive,
7 compassionate primary health care to people in the surrounding area, regardless of
8 ability to pay.

9 4. Additional background regarding the Debtor, including an overview of
10 the Debtor's business and additional events leading up to this Chapter 11 Case, is set
11 forth in the *Declaration of Isaac Lee, Chief Restructuring Officer, in Support of*
12 *Debtor's Emergency First Day Motions* [Dkt. No. 7].

13 5. On September 26, 2022, the Office of the United States Trustee
14 appointed the Official Committee of Unsecured Creditors in this Chapter 11 Case.
15 [Dkt. No. 49].

16 **B. FACTS RELEVANT TO MOTION**

17 6. The Debtor and Jared were parties to the Contract attached hereto as
18 **Exhibit "C."** Under the Contract, among other things, Jared agreed to provide
19 primary dental services to participating Debtor patients, and the Debtor agreed to pay
20 Jared for those services as set forth therein.

21 7. On July 19, 2022, the Debtor filed the Complaint attached hereto as
22 **Exhibit "B"** in the Action, naming Jared as a defendant. As further detailed in the
23 Complaint, the Debtor alleges that Jared (a) Jared submitted false and fraudulent bills
24 and made other statements which Jared knew to be false or had no reasonable grounds
25 for believing their representations were true, which also constitute a breach of the
26 Contract and are demonstrative of a larger pattern and practice of fraudulent and/or
27 unlawful conduct; (b) hired Maura Tuso to work as a dentist at his dental practice,

1 even though he knew Dr. Tuso was suspended from providing dental services to
2 Medi-Cal patients but, nonetheless, allowed Dr. Tuso to see patients of the Debtor
3 and bill the Debtor for the services Dr. Tuso provided to Medi-Cal patients; and (c)
4 also hired other dental providers who lacked California dental licenses to provide
5 dental services to patients of the Debtor, and that Jared billed the Debtor for the
6 services that unlicensed dental providers provided to Medi-Cal patients. Complaint,
7 at ¶¶ 196-98. The Complaint states that the Debtor was damaged in an amount to be
8 proven at trial. *Id.* at ¶¶ 501 and 576.

9 8. The Debtor scheduled a disputed claim for Jared in this Chapter 11 Case
10 denominated as Schedule ID 3273287 (the “Scheduled Disputed Claim”); however,
11 Jared failed to file a proof of claim or otherwise assert a right to payment under the
12 Contract, and the deadline [Docket No. 16] to file any such proof of claim has now
13 passed.

14 9. The Parties desire to fully and finally resolve any and all disputes arising
15 from or relating to the Contract attached hereto as **Exhibit “C,”** the Action, and the
16 Scheduled Disputed Claim, and have now reached the Settlement, as memorialized
17 in the Settlement Agreement attached hereto as **Exhibit “A.”**

18 C. **SETTLEMENT AGREEMENT**

19 10. The principal terms of the Settlement provide as follows:⁴

20 (a) Settlement Payment. Jared shall pay the Debtor the sum of \$125,000 in
21 full and final satisfaction of any and all alleged damages arising out of or relating to
22 the Contract and/or the Action (the “Settlement Amount”). The Settlement Amount
23 shall be paid in installments as follows: (i) within two (2) business days of the
24 Effective Date, Jared shall pay the Debtor the first installment of \$15,000 (the “Initial
25

26 ⁴ To the extent the summary conflicts with any terms of the Settlement Agreement, the terms of the
27 Settlement Agreement shall explicitly supersede and control. Capitalized terms in Motion that are
28 not defined in this Motion shall have the meaning provided in the Settlement Agreement.

1 Payment"); and (ii) thereafter, commencing one (1) month after the Initial Payment,
2 Jared shall pay the Debtor eleven (11) monthly installments of \$10,000 each (the
3 "Installment Payments");

4 (b) Stipulated Judgment. As set forth more fully in the Settlement Agreement,
5 the monthly installment payments described in "(a)" above shall be secured by a
6 Stipulation for Entry of Judgment, which shall be held by the Debtor and shall not be
7 filed or in any way acted upon until and unless Jared defaults on the payments
8 described above, and fails to timely cure his default, in which case, the Debtor shall
9 have the right, at its sole and absolute discretion, to file the Stipulation for Entry of
10 Judgment; provided that, upon completion of the payments described in "(a)," the
11 Stipulation for Entry of Judgment shall be forever and finally discharged;

12 (c) Cooperation. Jared agrees to reasonably cooperate in all respects in
13 connection with the Action, including without limitation by engaging in answering
14 written questions, producing documents, and/or participating in depositions and/or
15 informal interviews;

16 (d) Dismissal. The parties agree that, within five (5) business days of the
17 Debtor's receipt of the Initial Payment, the Debtor shall dismiss Jared from the
18 Action, with prejudice; and

19 (e) Disallowance. On the Effective Date of the Settlement Agreement, the
20 Scheduled Disputed Claim will be deemed disallowed.

21 **IV. ARGUMENT**

22 The authority granted a trustee or debtor in possession to compromise a
23 controversy or agree to a settlement is set forth in Bankruptcy Rule 9019(a), which
24 provides in pertinent part that "[o]n motion by the [debtor in possession] and after
25 hearing on notice to creditors . . . , the court may approve a compromise or
26 settlement." Fed. R. Bankr. P. 9019(a). Section 105(a) further provides the Court
27 with the discretion to issue any order that is necessary or appropriate to carry out the
28

1 purposes of the Bankruptcy Code. 11 U.S.C. § 105(a). Compromises are strongly
2 encouraged. *Consumer Advocacy Group, Inc. v. Kintetsu Enters. of Amer.*, 141 Cal.
3 App. 4th 46, 62 (Cal. 2006); *United States v. McInnes*, 556 F.2d 436, 440 (9th Cir.
4 1977) (“We are committed to the rule that the law favors and encourages compromise
5 settlements.”). Additionally, compromises are favored in bankruptcy so as to
6 minimize litigation and expedite a bankruptcy estate’s administration. *See Martin v.
7 Kane (In re A & C Props.)*, 784 F.2d 1377, 1381 (9th Cir. 1986), *cert. denied sub
nom, Martin v. Robinson*, 479 U.S. 854 (1986).

9 This Court has great latitude in approving compromise agreements as long as
10 it finds that the compromise is fair and equitable. *In re A & C Props.*, 784 F.2d at
11 1382; *see also Woodson v. Fireman’s Fund Ins. Co. (In re Woodson)*, 839 F.2d 610,
12 620 (9th Cir. 1988); *In re Mickey Thompson Entm’t Grp., Inc.*, 292 B.R. 415 (B.A.P.
13 9th Cir. 2003).

14 “The purpose of a compromise agreement is to allow the [debtor in possession]
15 and the creditors to avoid the expenses and burdens associated with litigating sharply
16 contested and dubious claims.” *In re A & C Props.*, 784 F.2d at 1380-81.
17 Accordingly, in approving a settlement agreement, the Court need not conduct an
18 exhaustive investigation of the claims sought to be compromised. *See United States
19 v. Alaska Nat’l Bank (In re Walsh Constr., Inc.)*, 669 F.2d 1325, 1328 (9th Cir. 1982).
20 Rather, it is sufficient that the Court find that the settlement was negotiated in good
21 faith and is reasonable, fair, and equitable. *See In re A & C Props.*, 784 F.2d at 1381.

22 The Ninth Circuit has identified the following factors for consideration in
23 determining whether a proposed settlement agreement is reasonable, fair, and
24 equitable:
25

- 26 1. the probability of success in the litigation;
- 27 2. the difficulties, if any, to be encountered in the matter of collection;
- 28 3. the complexity of the litigation involved, and the expense, inconvenience,

1 and delay necessarily attending it; and
2 4. the paramount interest of the creditors and a proper deference to their
3 reasonable views in the premises.

4 *In re A & C Props.*, 784 F.2d at 1381 (the “A & C Factors”).

5 A court should not substitute its own judgment for the judgment of the debtor
6 in possession. *Matter of Carla Leather, Inc.*, 44 B.R. 457, 465 (Bankr. S.D.N.Y.
7 1984); *see also In re Zarate*, 2015 WL 8482887, at *8 (B.A.P. 9th Cir. Dec. 9, 2015)
8 (“[T]he [debtor] must be permitted to use his business acumen and judgment in the
9 best interest of the estate.”). A court, in reviewing a proposed settlement, is not to
10 decide the numerous questions of law and fact but rather to canvass the issues to
11 determine whether the settlement falls below the lowest point in the range of
12 reasonableness. *In re W.T. Grant & Co.*, 699 F.2d 599, 608 (2nd Cir. 1983); *accord*
13 *Newman v. Stein*, 464 F.2d 689, 693 (2d Cir. 1972). The court should not conduct a
14 “mini-trial” on the merits of the underlying cause of action. *In re Walsh Const.*, 669
15 F.2d at 1328; *In re Blair*, 538 F.2d 849 (9th Cir. 1976).

16 The Settlement meets each of the relevant *A & C Factors*, is reasonable, fair,
17 and equitable, and is in the best interests of the estates.

18 **A. PROBABILITY OF SUCCESS IN THE LITIGATION**

19 The Debtor has been successful in the Action to date and is confident it would
20 prevail in any future proceedings. Nonetheless, there is no guarantee that the Debtor
21 will ultimately be successful in the Action, and any loss will mean the Debtor has
22 expended additional time and estate assets for nothing. The Litigation is surely to be
23 vigorously contested by the Dr. Jared and is factually intensive, both as to the merits
24 of the alleged fraud and the damages resulting from that alleged fraud. Additionally,
25 many relevant witnesses are also co-defendants, and are unlikely to be available to
26 testify against Dr. Jared. There is a significant risk of a judgment being less than the
27 anticipated amount or even zero. The Settlement avoids the uncertainty with
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1 litigation and resolves all disputes between the Parties arising out of the Contract, the
2 Action, and the Scheduled Disputed Claim. Finally, and perhaps most importantly,
3 litigation counsel for the Debtor in the Action have estimated that the amount being
4 paid by Dr. Jared is a fair estimate of the amount they could prove as to damages if
5 they were to prevail at trial. In other words, the Settlement Amount is, other than
6 reduction for the time value of money, basically equal to the best estimate of the
7 damages suffered by the Debtor.

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9 **B. DIFFICULTIES, IF ANY, TO BE ENCONTRERED IN THE MATTER
OF COLLECTION**

10 As with any judgement, the Debtor may have difficulty in collection, and
11 failure to approve this Settlement jeopardizes spending additional time and estate
12 assets in any such collection process in the future. Dr. Jared's assets are unknown
13 and the ability to collect on any judgement from his personal assets could prove
14 problematic. And, if the Debtor was able to achieve a large judgment, the Debtor's
15 litigation counsel was advised by Dr. Jared's counsel that he would have insufficient
16 assets to pay such a judgment. On the other hand, Settlement offers a cooperative
17 collection process, which weighs in favor of approving the Settlement.

18

19 **C. COMPLEXITY OF THE LITIGATION INVOLVED, AND THE
EXPENSE, INCONVENIENCE, AND DELAY NECESSARILY
ATTENDING IT**

20 The Settlement resolves disputes with Jared that could otherwise create
21 substantial expense and delay. The claims against Dr. Jared were focused, in part, on
22 hundreds of individual dental bills submitted to Medi-Cal, which would have been
23 extremely time consuming, difficult, and expensive to analyze, especially in light of
24 relatively small amount at issue with respect to Dr. Jared. The Debtor's litigation
25 counsel has also been informed that Dr. Jared's recordkeeping is largely in paper,
26 adding further time and expense of reviewing paper records rather than electronic
27 records. Litigation counsel estimates that resolving the Action through trial will take

1 years, and could be even further delayed by any appeals. Additionally, trying the
2 case against Dr. Jared alone would likely cost more than the amount being paid in
3 the Settlement. By entering into the Settlement, the Parties avoid costly and lengthy
4 litigation concerning the Contract, the Action, and the Scheduled Disputed Claim.

5 Further, pursuant to the Settlement, the Parties agree to (i) the Settlement
6 Amount, as secured by Stipulation for Entry of Judgment, (ii) dismissal of the Action,
7 (iii) disallowance of the Scheduled Disputed Claim, and (iv) reasonable cooperation
8 of Jared in connection with the Action against other named defendants.

9 **D. PARAMOUNT INTEREST OF THE CREDITORS**

10 Approval of the Settlement is in the best interests of the Debtor's creditors and
11 estate. As discussed, Settlement provides additional funds from which the Debtors'
12 creditors may be paid. Further, the Debtor was able to reach a settlement with Dr.
13 Jared which—based on the Debtor's analysis—was reasonably close to the damages
14 it would have been able to prove with respect to Dr. Jared. Accordingly, achieving
15 these funds without the need to invest tens of thousands of dollars in attorneys' fees
16 and months or years of additional delay, was in the best interest of the creditors.

17 **V. CONCLUSION**

18 **WHEREFORE**, the Debtor respectfully requests that the Court enter an order:
19 (i) granting the Motion; and (ii) granting such other and further relief as the Court
20 may deem proper.

21 Dated: June 21, 2023

22 DENTONS US LLP
23 SAMUEL R. MAIZEL
24 TANIA M. MOYRON
25 REBECCA M. WICKS

26 By /s/ Tania M. Moyron
27 Tania M. Moyron

28 Attorneys for the Chapter 11 Debtor
and Debtor In Possession

DECLARATION OF ISAAC LEE

I, Isaac Lee, submit this Declaration in support of the *Debtor's Motion To Approve Compromise Among Debtor, George Jared, D.D.S., and George Jared, D.D.S., Inc. Pursuant To Federal Rule Of Bankruptcy Procedure 9019* (the “9019 Motion”)⁵ filed by Borrego Community Health Foundation, the debtor and debtor in possession (the “Debtor”) in the above-captioned chapter 11 bankruptcy case (the “Chapter 11 Case”), and hereby state as follows:

1. I am the Chief Restructuring Officer of the Debtor. I received my MBA from the Tuck School at Dartmouth College and my BS in Business Administration from the University of Southern California. I am a Managing Director at Ankura Consulting Group with more than twenty (20) years of operational and financial restructuring experience. I have advised numerous companies on turnaround plan development and evaluation, liquidity improvement initiatives, asset dispositions, liability management, and bankruptcy filing preparation. I have also assisted in managing and administering companies during chapter 11 cases. Additionally, I have prior experience with health care providers, including a nine surgical center system and had senior level responsibilities on two prior engagements where Ankura has been involved as Chief Restructuring Officer. I am over the age of 18 and competent to testify as to the facts set forth herein and will do so if called upon.

2. I have personal knowledge of the facts stated in this declaration, except as to those stated on information and belief, and, as to those, I am informed and believe them to be true. If called as a witness, I could and would competently testify to the matters stated herein.

3. The Debtor and George Jared, D.D.S. and George Jared, D.D.S., Inc. (collectively, “Jared,” and together with the Debtor, the “Parties”) were parties to that

⁵ Unless otherwise defined herein, all capitalized terms have the definitions set forth in the 9019 Motion.

1 certain written dental services contract, with an effective date of April 19, 2016 (the
2 “Contract”) attached as **Exhibit “C”** to the 9019 Motion. Under the Contract, among
3 other things, Jared agreed to provide primary dental services to participating Debtor
4 patients, and the Debtor agreed to pay Jared for those services as set forth therein.

5 4. On July 19, 2022, the Debtor filed the Complaint attached as **Exhibit**
6 **“B”** to the 9019 Motion in the United States District Court for the Southern District
7 of California, entitled *Borrego Community Health Foundation v. Karen Hebets, et*
8 *al.*, Case No. 3:22-cv-01056 (the “Action”), naming Jared as a defendant. The
9 Complaint speaks for itself, but the 9019 Motion accurately summarizes the Debtor’s
10 allegations in the Complaint. *See* Compl. at ¶¶ 195-98, 501, and 576.

11 5. The Debtor scheduled a disputed claim for Jared in this Chapter 11 Case
12 denominated as Schedule ID 3273287 (the “Scheduled Disputed Claim”); however,
13 Jared failed to file a proof of claim or otherwise assert a right to payment under the
14 Contract, and the deadline [Docket No. 16] to file any such proof of claim has now
15 passed.

16 6. After negotiations among the Parties, the Parties desire to fully and
17 finally resolve any and all disputes arising from or relating to the Contract, the
18 Action, and the Scheduled Disputed Claim, and have now reached proposed
19 settlement (the “Settlement”), as memorialized in the Settlement Agreement and
20 Mutual Release (the “Settlement Agreement”) attached as **Exhibit “A”** to the 9019
21 Motion.

22 7. The Settlement resolves the Debtor’s claims against Jared in the
23 Action,⁶ as well as the Scheduled Disputed Claim, and any and all disputes arising
24 out of or relating to the Contract attached as **Exhibit “C”** to the 9019 Motion.

25
26
27 ⁶ For the avoidance of doubt, this Settlement does not address any claims by or against any other
28 named defendant in the Action besides Jared, and the Debtor hereby reserves its rights with respect
to all other named defendants in the Action.

1 8. As set forth more fully in the Settlement Agreement, the principal terms
2 of the Settlement provide as follows:⁷

3 (a) Settlement Payment. Jared shall pay the Debtor the sum of \$125,000 in
4 full and final satisfaction of any and all alleged damages arising out of or relating to
5 the Contract and/or the Action (the “Settlement Amount”). The Settlement Amount
6 shall be paid in installments as follows: (i) within two (2) business days of the
7 Effective Date, Jared shall pay the Debtor the first installment of \$15,000 (the “Initial
8 Payment”); and (ii) thereafter, commencing one (1) month after the Initial Payment,
9 Jared shall pay the Debtor eleven (11) monthly installments of \$10,000 each (the
10 “Installment Payments”);

11 (b) Stipulated Judgment. As set forth more fully in the Settlement Agreement,
12 the monthly installment payments described in “(a)” above shall be secured by a
13 Stipulation for Entry of Judgment, which shall be held by the Debtor and shall not be
14 filed or in any way acted upon until and unless Jared defaults on the payments
15 described above, and fails to timely cure his default, in which case, the Debtor shall
16 have the right, at its sole and absolute discretion, to file the Stipulation for Entry of
17 Judgment; provided that, upon completion of the payments described in “(a),” the
18 Stipulation for Entry of Judgment shall be forever and finally discharged;

19 (c) Cooperation. Jared agrees to reasonably cooperate in all respects in
20 connection with the Action, including without limitation by engaging in answering
21 written questions, producing documents, and/or participating in depositions and/or
22 informal interviews;

23 (d) Dismissal. The parties agree that, within five (5) business days of the
24 Debtor’s receipt of the Initial Payment, the Debtor shall dismiss Jared from the
25 Action, with prejudice; and

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⁷ To the extent the summary conflicts with any terms of the Settlement Agreement, the terms of the
Settlement Agreement shall explicitly supersede and control.

(e) Disallowance. On the Effective Date of the Settlement Agreement, the Scheduled Disputed Claim will be deemed disallowed.

9. The Settlement meets each of the relevant *A & C* Factors discussed in the 9019 Motion, is reasonable, fair, and equitable, and is in the best interests of the estates.

10. The Debtor has been successful in the Action to date and is confident it would prevail in any future proceedings. Nonetheless, there is no guarantee that the Debtor will ultimately be successful in the Action, and any loss will mean the Debtor has expended additional time and estate assets for nothing. The Litigation is surely to be vigorously contested by the Dr. Jared and is factually intensive, both as to the merits of the alleged fraud and the damages resulting from that alleged fraud. Additionally, many relevant witnesses are also co-defendants, and are unlikely to be available to testify against Dr. Jared. There is a significant risk of a judgment being less than the anticipated amount or even zero. The Settlement avoids the uncertainty with litigating and resolves all disputes between the Parties arising out of the Contract, the Action, and the Scheduled Disputed Claim. Finally, and perhaps most importantly, litigation counsel for the Debtor in the Action have estimated that the amount being paid by Dr. Jared is a fair estimate of the amount they could prove as to damages if they were to prevail at trial. In other words, the Settlement Amount is, other than reduction for the time value of money, basically equal to the best estimate of the damages suffered by the Debtor.

11. As with any judgement, the Debtor may have difficulty in collection, and failure to approve this Settlement jeopardizes spending additional time and estate assets in any such collection process in the future. Dr. Jared's assets are unknown and the ability to collect on any judgement from his personal assets could prove problematic. And, if the Debtor was able to achieve a large judgment, the Debtor's litigation counsel was advised by Dr. Jared's counsel that he would have insufficient

1 assets to pay such a judgment. On the other hand, Settlement offers a cooperative
2 collection process, which weighs in favor of approving the Settlement.

3 12. The Settlement resolves disputes with Jared that could otherwise create
4 substantial expense and delay. The claims against Dr. Jared were focused, in part,
5 on hundreds of individual dental bills submitted to Medi-Cal, which would have been
6 extremely time consuming, difficult and expensive to analyze, especially in light of
7 relatively small amount at issue with respect to Dr. Jared. Litigation counsel
8 estimates that resolving the Action through trial will take years, and could be even
9 further delayed by any appeals. Additionally, trying the case against Dr. Jared alone
10 would likely cost more than the amount being paid in the Settlement. By entering
11 into the Settlement, the Parties avoid costly and lengthy litigation concerning the
12 Contract, the Action, and the Scheduled Disputed Claim. Further, pursuant to the
13 Settlement, the Parties agree to (i) the Settlement Amount, as secured by Stipulation
14 for Entry of Judgment, (ii) dismissal of the Action, (iii) disallowance of the
15 Scheduled Disputed Claim, and (iv) reasonable cooperation of Jared in connection
16 with the Action against other named defendants.

17 13. The Settlement provides additional funds from which the Debtors'
18 creditors may be paid. Further, the Debtor was able to reach a settlement with Dr.
19 Jared which—based on the Debtor's analysis—was reasonably close to the damages
20 it would have been able to prove with respect to Dr. Jared. Accordingly, achieving
21 these funds without the need to invest tens of thousands of dollars in attorneys' fees
22 and months or years of additional delay, was in the best interest of the creditors.

23 14. Consequently, the Debtor submits that the approval of the Settlement is
24 in the best interests of the Debtor's estate and its creditors.

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[*Remainder of page intentionally left blank.*]

1 I declare under penalty of perjury of the laws of the United States of America
2 that the foregoing is true and correct.

3 Executed this 21th day of June, 2023.

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6 Isaac Lee

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